IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO. 1702 OF 2003

IN

MISC. PETITION NO. 553 OF 1986

Industrial finance Corporation
of India and anr. ....Plffs.
vs.
M/s. Estrella Batteries ltd
and anr. ...Resps.
AND
The Income-Tax Officer
Ward (TDS) 3(3) ...Appl
AND
The Court Receiver,
High Court, Bombay ...Resp.

S.R. Rajguru for the petitioner.
N.M. Ganguly and K.H. Mody i.b, Little and Co.
for Applicant MSEB-for workers.
Bharat Acharya and Ajay Mayekar
for Court Receiver present.

CORAM: S.U. KAMDAR, J.

DATE : 21st October, 2005.

P.C. :.

1. By the present notice of motion the applicant who is the Income Tax department has sought a

direction that the Court Receiver to admit and pay the claim of the Income Tax department to the extent of Rs.11,09,995/- alongwith interest thereon. However my attention has been drawn by the learned counsel for the MSEB to the two orders dated 6.10.2003 passed in Appeal No. 22 of 2003 in the Notice of Motion No. 1650 of 1995 and Misc. Petition No. 583 of 1986 wherein the division bench has already directed the court Receiver to pay over the amount which is lying with him to MSEB.

2. The said order has been subsequently corrected by an order dated 25.2.2004 and even interest is also directed to be paid to the MSEB. Once this order is complied with there will be no amount available with the Receiver from which payment can be made to the Income Tax Department.

3. In that view of the matter it is not possible to grant interim order. However it will open for the applicant Union of India to make necessary application in the said appeal if they desire that

it should be paid any amount from the amount which is lying deposited with the Court Receiver. If no such application is made or order obtained within a period of 8 weeks from today then the Receiver to comply with the order dated 6.10.2003 as subsequently modified by the division bench by an order dated 25.2.2004. If such application is made by the applicant then they shall give notice to MSEB of such an application. Motion disposed off accordingly. No order as to costs.

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